

Franchise Tax Board**ANALYSIS OF ORIGINAL BILL**Author: SimitianAnalyst: Deborah BarrettBill Number: SB 30Related Bills: See Legislative HistoryTelephone: 845-4301Introduced Date: December 4, 2006Attorney: Patrick Kusiak

Sponsor: _____

SUBJECT: Identity Information Protection Act of 2007**SUMMARY**

This bill would limit usage by state agencies of devices utilizing radio waves to read identification documents remotely.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to protect sensitive personal information from potential identity theft.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2008, and would be operative as of that date. Provisions of this bill not affecting the department require the California Research Bureau to report to the Legislature on security and privacy for government issued remotely readable identification documents within 270 days of a request from the Office of the President Pro Tempore of the Senate or the Office of the Speaker of the Assembly, or before June 30, 2008, whichever date is earlier.

POSITION

Pending.

ANALYSIS**FEDERAL/STATE LAW**

Current law allows state agencies to collect personal information on an individual only to the extent it is relevant and necessary to accomplish a purpose of the agency that is authorized by statute or federally mandated. Personal information is to be collected directly from the individual to the extent possible and made available to the individual upon request for inspection for accuracy. Current law provides avenues for a taxpayer to correct inaccurate information collected by the state agency.

Board Position:

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Department Director

Date

Lynette Iwafuchi For
Selvi Stanislaus

12/27/06

Current law generally prohibits a state agency from disclosing personal information maintained in its records except in accordance with specific exceptions. The exceptions include disclosing the information to the taxpayer or the taxpayer's authorized representative, to another state agency for the purpose of fulfilling its constitutional duties or investigation purposes, or to qualifying the individual for state sponsored assistance. Current federal law contains similar provisions for the protection of an individual's personal information maintained within a federal agency's system of records. These provisions identify exceptions that permit disclosure of personal information, as well as procedures to obtain a copy of personal information, address errors, and account for disclosures made by the agency.

THIS BILL

This bill would establish the Identity Information Protection Act of 2007. This bill would require state, county, or municipal governments or agencies to meet certain requirements if they create or issue identification documents that use radio waves to transmit data or enable personal information to be read remotely. Depending on the type of information transmitted, various access control protocols including encryption, detachable shield devices, or secondary verification procedures would be required by this bill.

This bill would exempt certain identification documents from the prohibition of the bill, such as identification documents that are part of a contactless integrated system that is operational and in use prior to January 1, 2008, or those identification documents that are issued to a person for the limited purpose of facilitating secured access by the identification document holder to a secured public building or parking area. There are numerous other uses that would be exempt from this bill's restrictions that do not pertain to this department and are not discussed in this analysis.

This bill would prohibit the disclosure of operational system keys to unauthorized third parties and would require an agency with subject devices to adopt procedures restricting access to the operation system keys. This bill would provide for disclosure of location information derived from the identification document to safety or emergency response agencies. This bill would provide for sanctions against a person or state entity that knowingly or willfully remotely reads or attempts to read a person's identification document remotely without the knowledge of that person. The punishment would range from imprisonment in a county jail for up to one year or a fine of not more than \$5,000 or both. This bill would also provide injunctive relief for an individual to prevent a governmental agency from violating the provisions of the bill.

This bill would also require the California Research Bureau to convene an advisory board of specified representatives to make recommendations, provide technical advice, answer bureau questions, and outline the strengths and weaknesses of potential approaches to privacy and security proposals for government issued identification documents. This bill would require the California Research Bureau to report to the Legislature on security and privacy for government issued remotely readable identification documents within 270 days of a request from the Office of the President Pro Tempore of the Senate or the Office of the Speaker of the Assembly, or before June 30, 2008, whichever date is earlier.

It is the intent of the bill to be an interim measure until subsequent legislation or regulations are enacted based on new information, including but not limited to, information or recommendations provided by the California Research Bureau. This bill's provisions would be repealed as of December 31, 2013.

IMPLEMENTATION CONSIDERATIONS

Implementation of this bill would not impact the department's operations or programs because the department's badge system uses an alternative technology to radio wave based devices.

PROGRAM BACKGROUND

Franchise Tax Board (FTB) currently uses an electronic badge system to secure FTB facilities. Each employee is required to wear a badge that contains an electronic device that will identify and record the location and time each individual in the department enters the facility by placing the badge on a reader. The badges issued by the department to personnel are embedded with a number that when activated access a secure database controlled by security staff that displays the picture identification and name associated with the card number. As such, the badges used by the department are free of personal information. As a result, the department is already compliant with the provisions of this bill because the department's badge system utilizes other technology options than those addressed in this bill.

LEGISLATIVE HISTORY

SB 768 (Simitian, 2005) contained identical provisions regarding the use of remote devices and security of personal information. SB 768 was vetoed by Governor Schwarzenegger on September 30, 2006. In his veto message, the Governor stated that the bill, "...may inhibit various state agencies from procuring technology that could enhance and streamline operations, reduce expenses, and improve customer service to the public...and may unduly burden the numerous beneficial new applications of contactless technology."

SB 682 (Simitian, 2005) contained identical language regarding the use of remote devices and the security of personal information. SB 682 was held in the Assembly Appropriations Committee.

SB 168 (Bowen, Stats. 2001, Ch. 720) prohibited any person or entity, not including a state or local agency, from using an individual's social security number in certain ways, including posting it publicly, or requiring it for access to products or services.

SB 25 (Bowen, Stats. 2003, Ch. 907) extended requirements restricting use of social security numbers to state and local agencies, subject to specified exceptions.

OTHER STATES' INFORMATION

The states reviewed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. No comparable statutes prohibiting state use of electronic devices containing personal information were found.

FISCAL IMPACT

This bill would not significantly impact the department's costs because current security practices are already in compliance with the bill's requirements..

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

LEGISLATIVE STAFF CONTACT

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